

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Justin Huang	Team: Squad #4	CCRB Case #: 201911004	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/10/2019 8:10 PM	Location of Incident: [REDACTED]	Precinct: 18	18 Mo. SOL 6/10/2021	EO SOL 1/25/2022	
Date/Time CV Reported Tue, 12/10/2019 8:19 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/26/2019 4:09 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Pichardo	23681	947350	CW T TF
2. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.POM Jose Pichardo	Force: Police Officer Jose Pichardo used a chokehold against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Jose Pichardo	Force: Police Officer Jose Pichardo restricted § 87(2)(b) [REDACTED] s breathing.	[REDACTED]
C. An officer	Abuse: An officer threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On December 10, 2019, § 87(2)(b) filed this complaint over the phone with IAB. The CCRB received the case from IAB on December 26th, 2019.

On December 10, 2019, at approximately 8:10PM, Police Officer Jose Pichardo, from the City-Wide Traffic Task Force, was directing traffic at the intersection of § 87(2)(b) in Manhattan. § 87(2)(b) attempted to make a left turn at the intersection. PO Pichardo allegedly approached § 87(2)(b)'s car, grabbed § 87(2)(b) by the neck, and restricted § 87(2)(b)'s breathing (**Allegations A and B: Force, § 87(2)(g)**). An unidentified officer arrived and allegedly threatened to arrest § 87(2)(b) (**Allegation C: Abuse of Authority, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

PO Pichardo issued § 87(2)(b) issued two summonses as a result of this incident, one for failure to comply with a lawful order and one for making an improper left turn (**BR 01**).

There is no video evidence of this incident.

Findings and Recommendations

Allegation A – Force: Police Officer Jose Pichardo used a chokehold against § 87(2)(b)

Allegation B – Force: Police Officer Jose Pichardo restricted § 87(2)(b)'s breathing.

It is undisputed that § 87(2)(b) was driving and made a left turn at § 87(2)(b). It is also undisputed that PO Pichardo was present at the intersection, and initiated physical contact with § 87(2)(b).

§ 87(2)(b) (**BR 02**) stated that he signaled to make a left turn at the intersection. PO Pichardo waved forward and § 87(2)(b) drove forward a few feet. PO Pichardo then extended his hands out with his palms forward. § 87(2)(b) rolled down the driver's side window and told PO Pichardo he wanted to turn left. PO Pichardo made a semicircular motion with his left hand around the left side of his body. § 87(2)(b) interpreted this as a signal to turn left. § 87(2)(b) drove around PO Pichardo, turned left, and then stopped due to traffic. PO Pichardo ran up to § 87(2)(b)'s driver side window, thrust his left hand through the window, and wrapped his hand around § 87(2)(b)'s neck. PO Pichardo held § 87(2)(b) against the headrest of the seat and applied pressure to § 87(2)(b)'s neck. § 87(2)(b) yelled, "Leave me! Leave me!" § 87(2)(b) had difficulty breathing and speaking. After approximately six seconds, PO Pichardo let go of § 87(2)(b)'s neck.

PO Pichardo (**BR 03**) stated that he saw § 87(2)(b) in the second lane of a five-lane setup at the intersection. § 87(2)(b) signaled that he wanted to make a left turn. PO Pichardo motioned for him to stop as § 87(2)(b) was about to turn. § 87(2)(b) told PO Pichardo that he wanted to make the left turn and that the officer directing traffic at the previous intersection told him to go. PO Pichardo told § 87(2)(b) that he could make the turn at the next intersection. When the traffic light turned green, PO Pichardo turned his body to the side and pointed with both his hands to go straight down 5th Avenue. § 87(2)(b) swiftly made a left turn and went around PO Pichardo's body, almost hitting PO Pichardo. PO Pichardo rushed to the driver's side window while § 87(2)(b)'s car was still moving, reached into the car with his left hand, and grabbed § 87(2)(b)'s shirt. PO Pichardo grabbed the upper chest area, just below the collar, part of § 87(2)(b)'s shirt. PO Pichardo then told § 87(2)(b) to pull over. § 87(2)(b) asked repeatedly why PO Pichardo was choking him and

pulled the car over to the street corner. PO Pichardo let go of § 87(2)(b) as soon as he stopped the car which was two to three seconds after making initial contact with § 87(2)(b). PO Pichardo denied touching § 87(2)(b)'s neck and applying pressure to § 87(2)(b)'s neck.

§ 87(2)(g)

Allegation C - Abuse of Authority: a Police Officer threatened to arrest § 87(2)(b)

§ 87(2)(b) (BR 02) stated that soon after PO Pichardo released his hold, another officer (PO2) approached and asked what was going on. § 87(2)(b) described PO2 as a male in uniform, fair skinned, with short hair and standing at 5 feet 5 inches tall. PO Pichardo told PO2 what had happened. PO2 told § 87(2)(b) to give PO Pichardo his license and registration. § 87(2)(b) provided his documents. § 87(2)(b) asked PO2 if he would do anything about PO Pichardo's actions. PO2 told § 87(2)(b) he could file a complaint with the CCRB. § 87(2)(b) gave PO2 a piece of paper to write down the information. PO2 wrote "CCRB" on it and returned the paper to § 87(2)(b). § 87(2)(b) asked if PO2 was not going to file a report. PO2 told § 87(2)(b) to file his complaint with the CCRB and walked to his patrol car. § 87(2)(b) followed PO2 and asked PO2 about filing a report. PO2 exited the patrol car and told § 87(2)(b) not to come that close to the window and threatened to arrest § 87(2)(b) if he did so again.

PO Pichardo (BR 03) stated that he released § 87(2)(b)'s shirt and PO2 approached. PO Pichardo did not know who PO2 was. § 87(2)(b) provided his license number and handed his insurance and registration to PO Pichardo. PO Pichardo then walked to his vehicle to issue § 87(2)(b) two summonses. PO Pichardo did not hear § 87(2)(b)'s conversation with PO2 as he was walking toward his vehicle. PO Pichardo did not witness § 87(2)(b) go to PO2's patrol car, nor did he witness or hear PO2 threaten to arrest § 87(2)(b).

This incident occurred within the confines of the 18th Precinct. A review of the 18th Precinct Tour 3 Roll Call showed that 13 officers matched or partially matched § 87(2)(b)'s description of PO2 (BR 11).

PO2 is not identified. PO Pichardo did not recognize the officer and § 87(2)(b)'s description did not provide sufficient information that can help identify the officer. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 06**).
- PO Pichardo has been a member of service for eleven years and has been a subject to one previous complaint and one allegation, which was not substantiated. § 87(4-b), § 87(2)(g) (**BR 07**).

Mediation, Civil and Criminal Histories

- § 87(2)(b) chose to mediate his complaint. On February 12th, 2020, the case was returned from mediation (**BR 08**).
- As of January 9th, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**BR 09**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 10**).

Squad No.: 4

Investigator:	<u>Justin Huang</u>	<u>Investigator Huang</u>	<u>06/04/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>06/04/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date